IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5864 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SHREE ITADARA DOODH UTPADAK SAHKARI MANDLI LTD - Petitioner(s)

Versus

ARVINDBHAI SON OF KESHAVLAL PATEL - Respondent(s)

==========

Appearance :

MR DIPAK R DAVE for Petitioner No(s).: 1.

MR KV GADHIA for Respondent No(s).: 1 - 1.

==========

CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 24/06/2005

ORAL JUDGMENT

1.0 The petitioner herein has challenged the order dated 01.10.1999 passed by the

Labour Court, Kalol in Reference (LCK) No.116 of 1984, whereby the said Reference was allowed.

2.0 The petitioner is a Co-operative Society registered under the provisions of the Co-operative Societies Act. The respondent was appointed as a Secretary-cum-Manager in the petitioner Society on 14.12.1970.

2.1 It is the case of the petitioner that the respondent was misappropriating the funds of the petitioner Society and that there were many complaints against him. When the audit of the petitioner Society took place, several irregularities had surfaced. The respondent, thereafter, tendered his resignation on 19.11.1982. Prior to that, there was a General Meeting of the petitioner Society on 10.09.1982, wherein it was resolved to dismiss the respondent from service.

2.2 It is the case of the petitioner Society that pursuant to the above Resolution, the respondent was dismissed from service on 15.09.1982. The respondent raised industrial dispute before the Conciliation Officer, which was, ultimately referred to the Labour Court, Kalol, by way of reference being Reference (LCK) No.116 of 1984. The Labour Court, Kalol, by award dated 01.10.1999, allowed the reference of the respondent. Hence, this petition.

3.0 Mr. D R Dave learned advocate for the petitioner has submitted that the respondent has expired on 03.03.2001 and the legal heirs are already brought on record, and therefore, the question of reinstatement in service shall not survive. He has submitted that, even otherwise, the respondent would have attained the age of superannuation.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. Since the respondent has expired, the only question which is now required to be considered in this petition is the question of compensation during the period from

19.11.1982, i. e. the date of dismissal from service to the date of superannuation of the deceased employee. Looking to the peculiar facts and circumstances of the case, it would be appropriate to grant a lump-sum amount, by way of compensation, to the legal heirs of the deceased employee. In my opinion, an amount of Rs.70,000.00 by way of compensation would be sufficient.

5.0 In above view of the matter, the petitioner Society is directed to pay an amount of Rs.70,000.00 (Rupees Seventy Thousand only) to the legal heirs of the deceased respondent within a period of two months from today. It is clarified that the aforesaid payment shall be towards full the final settlement of all the dues of the deceased employee. The impugned order of the Labour Court is accordingly substituted by the aforesaid direction. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

pravin/ *